

#### § 4.235

therefor, and subpoenas will be issued where necessary and proper. The administrative law judge may call witness and interpreters and order payment out of the estate assets of per diem, mileage, and subsistence at a rate not to exceed that allowed to witnesses called in the U.S. District Courts. In hardship situations, the administrative law judge may order payment of per diem and mileage for indispensable witnesses and interpreters called for the parties. In the order for payment he shall specify whether such costs shall be allocated and charged against the interest of the party calling the witness or against the estate generally. Costs of administration so allowed shall have a priority for payment greater than that for any creditor claims allowed. Upon receipt of such order, the Superintendent must immediately initiate payment of such sums from the estate account, or if such funds are insufficient, then out of funds as they are received in such account prior to closure of the estate, with the proviso that such costs must be paid in full with a later allocation against the interest of a party, if the administrative law judge has so ordered.

[36 FR 7186, Apr. 15, 1971, as amended at 53 FR 27686, July 22, 1988; 66 FR 32889, June 18, 2001]

#### § 4.235 Supplemental hearings.

After the matter has been submitted but prior to the time the administrative law judge has rendered his decision, the administrative law judge may upon his own motion or upon motion of any party in interest schedule a supplemental hearing if he deems it necessary. The notice shall set forth the purpose of the supplemental hearing and shall be served upon all parties in interest in the manner provided in § 4.211. Where the need for such supplemental hearing becomes apparent during any hearing, the administrative law judge may announce the time and place for such supplemental hearing to all those present and no further notice need be given. In that event the records shall clearly show who was present at the time of the announcement.

#### 43 CFR Subtitle A (10-1-01 Edition)

#### § 4.236 Record.

(a) After the completion of the hearing, the administrative law judge shall make up the official record containing:

(1) A copy of the posted public notice of hearing showing the posting certifications;

(2) A copy of each notice served on interested parties with proof of mailing;

(3) The record of the evidence received at the hearing, including any transcript made of the testimony;

(4) Claims filed against the estate;

(5) Will and codicils, if any;

(6) Inventories and appraisements of the estate;

(7) Pleadings and briefs filed;

(8) Special or interim orders;

(9) Data for heirship finding and family history;

(10) The decision and the administrative law judge's notices thereof; and

(11) Any other material or documents deemed material by the administrative law judge.

(b) The administrative law judge shall lodge the original record with the designated Land Titles and Records Office in accordance with 25 CFR part 150. A duplicate copy shall be lodged with the Superintendent originating the probate. A partial record may also be furnished to the Superintendents of other affected agencies. In those cases in which a hearing transcript has not been prepared, the verbatim recording of the hearing shall be retained in the office of the administrative law judge issuing the decision until the time allowed for rehearing or appeal has expired. In cases in which a transcript is not prepared, the original record returned to the Land Titles and Records Office shall contain a statement indicating no transcript was prepared.

[36 FR 7186, Apr. 15, 1971, as amended at 52 FR 26345, July 14, 1987; 52 FR 35557, Sept. 22 1987]

#### DECISIONS

#### § 4.240 Decision of administrative law judge and notice thereof.

(a) The administrative law judge shall decide the issues of fact and law involved in the proceedings and shall incorporate in his decision: